

EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON 25, D. C.

June 6, 1960

My dear Mr. Chairman:

This is in response to your letter of April 7, 1959, requesting the views of the Bureau of the Budget with regard to S. 1489, a bill "To amend title 28 of the United States Code to provide for certain judicial review of administrative removals and suspensions of Federal employees."

This bill has two general purposes: (1) to permit civilian employees who have been removed or suspended to bring action for reinstatement or restoration to duty in a United States district court in his locality, rather than only in the U. S. District Court for the District of Columbia, as at present, and (2) to extend to the court which may order reinstatement or restoration the authority to award back pay to a successful plaintiff rather than, as at present, requiring him to file a separate subsequent suit for that purpose in the Court of Claims if such payment is denied by the agency or the General Accounting Office. The principal issue in regard to the advisability of enactment of this measure is the weighing of the inconvenience and financial burden which the present system may place upon some plaintiffs against the greater complexity of administration and substantially increased cost which the proposal would place upon the Government.

In general, barriers of unusual expense and inconvenience, such as will unduly deter appeal of any matter to the courts, should not exist. On that basis the objectives of S. 1489 appear desirable. However, the subject and the circumstances of court cases relative to dismissals and suspensions of Government employees modify that general principle. First of all, the subject of litigation is a disciplinary action by the Government as an employer. Second, the Government has ordinarily provided - frequently at considerable cost to itself - opportunity for local appeal to an impartial appeal board, and often for a number of additional appeals, within the agency. Third, appeal to the Civil Service Commission is provided on the general scope of matters on which suit might be based in the district courts. When these points are considered along with the considerably greater difficulty in administration, increased expense, and possibility of diversity of legal interpretation, equity does not appear to demand legislation facilitating easier appeal to the courts.

- 2 -

As to extention to the U. S. District Court for the District of Columbia of authority to award back pay to a successful plaintiff, it is the view of the Bureau of the Budget that it would be appropriate to permit an employee to obtain award of back pay as well as reinstatement in one action in that court.

In view of the above, the Bureau of the Budget agrees with the views of the Chairman of the Civil Service Commission expressed in the report he is making to your Committee on this bill. This Bureau recommends against enactment of S. 1489 in its present form, but would have no objection to a measure along the lines suggested by the Civil Service Commission.

Sincerely yours,

(signed) Phillip S. Hughes

Assistant Director for
Legislative Reference

Honorable James O. Eastland
Chairman, Committee on the Judiciary
United States Senate
2226 Senate Office Building
Washington 25, D. C.